

REMARKS/ARGUMENTS

I. Status of the Claims

This is a full and timely response to the Non-Final Office Action dated August 9, 2006. As noted in the Office Action, Claims 1-17 remain pending in the application and Claims 11-17 were previously withdrawn from consideration. Claims 1-3, 5 and 6 are currently amended.

II. Claim Rejections

a. 35 U.S.C. § 102

The Office Action rejected Claims 1-6 under 35 U.S.C. 102(b) as being anticipated by *Eckhout*. For at least the reasons discussed below, Applicant respectfully submits that the aforementioned claims are not anticipated by *Eckhout*, and thus requests that the rejections be withdrawn.

Section 2131 of the Manual of Patent Examining Procedure (MPEP) provides that “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Further, “The identical invention must be shown in as complete detail as is contained in the claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Applicant respectfully submits, contrary to the Examiner’s assertion, that the *Eckhout* reference does not teach all of the limitations of each of the aforementioned claims, and thus the rejection is unsupported by the art and should be withdrawn.

For example, Applicant’s Claim 1, as amended, reads:

1. An apparatus comprising:
a base shell having an outer side and a generally opposing wall side facing **said a wall, said base shell including one or more landings on said outer side, said one or more landings having a total surface area that is less than a surface area of said outer side;**
an outer shell having an outwardly-facing decorative side and a generally opposing inner side facing said wall, said outer shell including one or more bases

on said inner side, said one or more bases having a total surface area that is less than a surface area of said inner side, and said one or more bases corresponding in size and location to said one or more landings; and one or more shell fasteners for attaching said one or more bases to said one or more landings, thereby joining said outer shell to said base shell.

Applicant respectfully submits that *Eckhout* does not teach each and every limitation of Applicant's Claim 1. Under the Examiner's reasoning, the entire planar surface and curved edges of *Eckhout*'s base (36) comprise the landings. Similarly, the Examiner asserts that the planar surface and curved edges of the appliqué film segment (32) comprises the bases, as defined in Applicant's Claim 1. However, *Eckhout* does not teach "landings having a total surface area that is less than a surface area of said outer side" and "bases having a total surface area that is less than a surface area of said inner side", as required by Applicant's Claim 1.

Furthermore, *Eckhout* does not teach "one or more shell fasteners for attaching said one or more bases to said one or more landings, thereby joining said outer shell to said base shell". The Examiner asserts that *Eckhout*'s Figure 3 shows the outer shell fastened to the base shell. Applicant respectfully disagrees. *Eckhout*'s Figure 3, along with the specification, does not show "joining said outer shell to said base shell". Figure 3 clearly shows that the outer layer (decorative appliqué film segment 32) is not attached to the inner layer (plastic base 36); rather, the two layers are separated by an intermediate layer (plastic liner 34). In addition, *Eckhout* reads:

A plastic liner liner [sic] 34 is extruded directly onto the decorative appliqué film to form a sheet of decorative appliqué material 35. Specifically the sheet of decorative appliqué material is extruded through a die having a thin slit (not shown) and then a heated plastic material is extruded directly onto the appliqué material, bonding the two surfaces together. This conventional extrusion process secures the first surface 38 of the plastic liner 34 to the decorative appliqué film.

(*Eckhout*, Col. 4, lns 51-59, emphasis added). Thus, *Eckhout* teaches extruding one layer directly onto another layer and does not teach "shell fasteners for attaching said one or more bases to said one or more landings". Applicant respectfully requests that the rejection of Claim 1 be withdrawn.

Eckhout also does not teach “one or more footings” and “one or more wall fasteners for attaching said one or more footings to said wall”, as required by Applicant’s Claim 2. The Examiner asserts that the connecting tower (40) of *Eckhout* teaches the footings of Applicant’s claim, and asserts that the fastening aperture (42) of *Eckhout* teaches the wall fasteners of Applicant’s claim. Applicant respectfully submits that the fastening aperture of *Eckhout* does not teach “one or more wall fasteners”. In addition, Applicant’s amended Claim 2 recites:

2. The apparatus of claim 1, further comprising:
one or more footings on said wall side; and
one or more wall fasteners for attaching said one or more footings to said wall, thereby joining said base shell to said wall, said one or more wall fasteners being positioned between said one or more footings and said wall.

Eckhout does not teach “one or more wall fasteners being positioned between said one or more footings and said wall”. Finally, Claim 2 depends from and necessarily includes all of the limitations of independent Claim 1. Thus, Claim 2 is not anticipated by *Eckhout* and Applicant respectfully requests that the rejection of Claim 2 be withdrawn.

As discussed above with regard to Claim 1, *Eckhout* does not teach all of the limitations of Applicant’s Claim 3. *Eckhout* does not teach “intermediate bases having a total surface area that is less than a surface area of said inner surface” and “landings having a total surface area that is less than a surface area of said outer surface”. *Eckhout* reads:

The decorative appliqué member is finally placed in an article defining cavity of a mold (not shown) shaped correspondingly to plastic base 36. Plastic is next injected into the mold cavity and decorative appliqué member is thereby insert molded with plastic base 36 to form decorative appliqué assembly 12.

(Col. 4, ln. 60 – col. 5, ln. 2). Thus, *Eckhout* teaches securing the intermediate layer to the base layer by insert molding and does not teach “one or more intermediate fasteners for attaching said one or more intermediate shells to said base shell”, as required by Applicant’s Claim 3. In addition, Claim 3 depends from and necessarily includes all of the limitations of Claim 1 and thus is not anticipated by *Eckhout*.

Applicant also respectfully asserts that *Eckhout* does not teach all of the claim limitations of Applicant's Claim 4. As discussed above, *Eckhout* does not teach "one or more footings" (Applicant's Claim 2) and thus cannot teach "one or more footings" that "form one or more corresponding channels on said outer side of said base shell" as required by Applicant's Claim 4. The connecting tower (40) of *Eckhout* (asserted by the Examiner to be analogous to Applicant's "one or more footings") does not form a corresponding channel on the outer side of a base shell. As can be seen in *Eckhout*'s Figure 3, the base shell has no channels and has a smooth planar and curved surface along its outer side. In addition and as discussed above, *Eckhout* does not teach landings as recited in Applicant's Claim 1, thus *Eckhout* cannot teach "one or more landings" that are "interspersed on said outer side between and among said one or more channels". Claim 4 depends from and necessarily includes all of the limitations of Claim 2 (and Claim 1 through dependency) and thus is not anticipated by *Eckhout*.

Because *Eckhout* does not teach all of the limitations of Applicant's Claims 1-6, Applicant respectfully requests that the rejections of these claims be withdrawn.

b. Applicant's Claims 5 and 6

The Office Action did not specifically reject Claims 5 and 6 in light of the prior art. Claim 5 was objected to based on the phrase "wherein said base shell and said outer shell are manufactured by thermoforming". Claim 5 has been amended to read:

5. The apparatus of claim 1, wherein said base shell and said outer ~~shell are manufactured by thermoforming~~ **comprise thermoformed thermoplastic sheets.**

Applicant respectfully submits that Claim 5 does not define a process of making a product as asserted in the Office Action and thus requests that the rejection of this claim be withdrawn.

The Office Action also objected to Claim 6 based on the phrase "when joined". The Office Action asserted that this claim was not a positive limitation as it is directed to an intended future use of the claimed product. However, Applicant's Claim 1 clearly recites "one or more shell fasteners for attaching said one or more bases to said one or more landings, thereby joining

said outer shell to said base shell”. (Emphasis added). Thus, the “joining” of the base shell and outer shell as defined in Claim 6 is not directed to an intended future use. For clarification only, Claim 6 has been amended to read:

6. The apparatus of claim 2, wherein said joined base shell and said outer shell, ~~when joined~~, define a shell cavity,
and wherein said joined base shell and said wall, ~~when joined~~, define a base cavity.

Applicant respectfully submits that the phrases “joined base shell and said outer shell” and “joined base shell and said wall” recite positive limitations and are not directed to an intended future use of the apparatus. Thus, Applicant respectfully requests that the rejection of Claim 6 be withdrawn.

c. 35 U.S.C. § 103

The Office Action rejected Claims 1-2 and 9-10 under 35 U.S.C. 103(a) as being unpatentable over *Courtney*. The burden of establishing a *prima facie* case of obviousness rests with the USPTO. See, In re Fine, 837 F.2d 1071, 1073, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); In re Piasecki, 745 F.2d 1468, 1471-72, 223 U.S.P.Q. 785, 787-88 (Fed. Cir. 1984). Only if the Examiner satisfies this initial burden does the burden of coming forward with evidence shift to the Applicant. Id. To establish a *prima facie* case of obviousness, three basic criteria must be met. These criteria are as follows: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or references when combined) must teach or suggest all the claim limitations. M.P.E.P. § 2143, 8th Ed., 4th Rev.

Applicant respectfully submits that *Courtney* does not teach all of the limitations of Claim 1. As discussed above, Claim 1 has been amended to recite, in part, “one or more landings having a total surface area that is less than a surface area of said outer side”. Under the Examiner’s assertion, *Courtney* teaches one landing that is the entire planar surface of

Courtney's mounting sheet (11); thus, the Office Action asserts that the entire surface area of the mounting sheet is one landing. *Courtney* does not teach "one or more landings having a total surface area that is less than the surface area of said outer side" (e.g., of *Courtney*'s mounting sheet). Additionally, Applicant's Claim 1 requires that the "one or more bases correspond[] in size and location to said one or more landings". The mounting sheet (11) of *Courtney*, considered by the Examiner to constitute one landing, does not "correspond[] in size and location" to the bumper sticker (12), which the Examiner considered to constitute one base. Rather, *Courtney* teaches:

a bumper sticker **12** to be placed on the bumper **14** of an automobile is adhered to the mounting sheet **11** using, for example, the adhesive normally contained on the reverse side of the bumper sticker. The mounting sheet **11** may then be trimmed to match the shape of the bumper sticker **12**.

(*Courtney*, Col. 2, lns. 33-38). Thus, the mounting sheet does not "correspond in size and location" (Applicant's Claim 1) to the bumper sticker, but must be trimmed after mounting in order to "match the shape" of the bumper sticker. In summary, Applicant respectfully submits that the *prima facie* case of obviousness has not been met. *Courtney* does not teach all of the limitations of Applicant's Claim 1. Nor has the Office Action shown a suggestion or motivation to modify *Courtney* to teach all of the limitations of Applicant's Claim 1. Thus, Applicant respectfully requests that the rejection of Claim 1 be withdrawn.

Applicant also respectfully submits that Claim 2 is not obvious in light of *Courtney*. The Office Action does not specifically assert reasons for the rejection of Claim 2. Because Claim 2 depends from and contains all of the limitations of Claim 1, Applicant respectfully requests that the rejection of Claim 2 in light of *Courtney* be withdrawn for at least the reasons discussed above.

The Office Action rejected Claim 9 asserting that *Courtney* teaches a shell fastener that is a two-part fastening tape joined by hook side and loop side (16) which is adhesively secured to the bumper wall. The Office Action further asserts that it would have been obvious to modify *Courtney*'s hook and loop tapes' adhesive surface to have a release liner, as required by

Applicant's Claim 9. However, *Courtney* does not teach a "shell fastener" as asserted in the Office Action. Applicant's Claim 1 recites "shell fasteners for attaching said one or more bases to said one or more landings, thereby joining said outer shell to said base shell". The Office Action considers *Courtney*'s mounting sheet (11) to be analogous to Applicant's base shell and considers *Courtney*'s bumper sticker (12) to be analogous to Applicant's outer shell. *Courtney* teaches attaching the bumper sticker to the mounting sheet in the following manner:

... a bumper sticker **12** to be placed on the bumper **14** of an automobile is adhered to the mounting sheet **11** using, for example, the adhesive normally contained on the reverse side of the bumper sticker.

(*Courtney*, Col. 2, lns. 33-36, emphasis added). Thus, *Courtney* does not teach shell fasteners comprising "segments of a two-part fastening tape joined by a hook side and a loop side configured to provide temporary attachment when pressed together", as recited in Applicant's Claim 9. Additionally, Claims 9 and 10 depend from and contain all the limitations of Claims 1 and 2, respectively. As discussed above, *Courtney* does not teach all of the limitations of Claims 1 and 2; thus, *Courtney* also does not teach all of the limitations of Claims 9 and 10. Applicant respectfully requests that the rejections of Claims 9 and 10 be withdrawn.

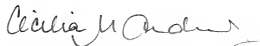
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III. Conclusion

The Office Action noted that Applicant made an election without traverse in the reply filed on 6/12/2006. The Office Action included a typographical error indicating that Applicant elected "Group II", containing species claims 1-10. Applicant respectfully notes that it was Group I (Claims 1-10) that was elected.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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